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OFFICE OF PETITIONS

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| In re Application of | : | |
| Flexman et al. | : | |
| Application No. 10/659,888 | : | DECISION |
| Filed: September 11, 2003 | : | ON PETITION |
| Attorney Docket Number: | : | |
| AD6937 US NA | : | |

This is a decision in response to the "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181", filed June 23, 2006.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly respond to the non-final Office action, mailed September 24, 2004. The Office action set a three (3) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No response having been received, the application became abandoned December 25, 2004. A Notice of Abandonment was mailed October 6, 2005.

The instant petition

Applicant files the instant petition wherein Applicant avers that a timely reply to the Office action, including a request for a one (1) month extension of time and fee, was filed on January 24, 2005, and was received by this Office as evidenced by Applicant's return-receipt postcard. In support of this assertion, Applicant provides a copy of

his return-receipt postcard evidencing receipt of, *inter alia*, a reply to the Office action including an amendment and fee transmittal sheet.

A review of Office records reveals receipt of the Petition for Extension of Time and fee on January 26, 2005, and Office finance records confirm that Applicant's deposit account 04-1928 was charged the fee for a one (1) month extension of time fee on January 26, 2005.

However, no amendment has been located among the application papers.

As such, the petition may not be granted at this time. Applicant must re-file a copy of the amendment responsive to the Office action before the petition may be granted.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
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